

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

)
Case No: 0419 3:01CR00002-004
)
USM No: 16526-058
)
Pro Se
Defendant's Attorney

Date of Original Judgment: 05/20/2002
Date of Previous Amended Judgment: _____
(Use Date of Last Amended Judgment if Any)

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of the defendant the Director of the Bureau of Prisons the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

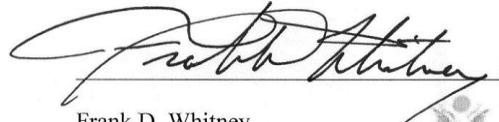
DENIED. GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____.

(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)

Except as otherwise provided, all provisions of the judgment dated 08/09/2002, shall remain in effect.

IT IS SO ORDERED.

Signed: December 15, 2023



Frank D. Whitney
United States District Judge

Effective Date:
(if different from order date)

This page contains information that should not be filed in court unless under seal.
(Not for Public Disclosure)

DEFENDANT: Allen Dwayne Berry

CASE NUMBER: 0419 3:01CR00002

DISTRICT: Western District of North Carolina

I. COURT DETERMINATION OF GUIDELINE RANGE (*Prior to Any Departures*)

Previous Total Offense Level: 40

Amended Total Offense Level: 40

Criminal History Category: V

Criminal History Category: V

Previous Guideline Range: 360 to Life months

Amended Guideline Range: 360 to Life months

II. SENTENCE RELATIVE TO THE AMENDED GUIDELINE RANGE

- The reduced sentence is within the amended guideline range.
- The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a substantial assistance departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- The reduced sentence is above the amended guideline range.

III. FACTORS CONSIDERED UNDER USSG § 1B1.10 AND 18 U.S.C. § 3553(a) (*See Chavez-Meza v. United States, 138 S.Ct. 1959 (2018)*)

In this case, the application of Amendment 821 reduces the defendant's status points to one resulting in a total of 10 criminal history points, criminal history category V. Since the criminal history category does not change, the application of Amendment 821 provides no change in this case.